

ERRATA

Corrections to Stipulated Revocation of License and Order and Exhibit A Accusation/Petition to Revoke Probation No. 2949

Stipulated Revocation of License and Order and Exhibit A, the Accusation/Petition to Revoke Probation No. 2949, contains references to Pharmacist License No. RPH 49485 in the underlying disciplinary action entitled "In the Matter of the Accusation against Cesar B. Cabrera" which, pursuant to a decision of the Board of Pharmacy effective May 27, 2005, revoked Respondent's Pharmacist License but stayed revocation in favor of probation for five (5) years. Those references mistakenly use Pharmacist License No. RPH 49485 rather than Pharmacist License No. RPH 41132. This clerical error is hereby corrected as part of the Board's Stipulated Revocation of License and Order. This Errata page shall become part of Respondent's disciplinary history with the Board. For the purposes of correcting the record, the following changes are hereby made to the Stipulated Revocation of License and Order and Exhibit A:

Stipulated Revocation of License and Order:

- Page 1, Line 17: Substitute "41132 " for "49485"
- Page 2, Line 4: Substitute "41132 " for "49485"
- Page 3, Line 24: Substitute "41132 " for "49485"

Exhibit A

- Page 1, Line 15: Substitute "41132 " for "49485"
- Page 1, Line 23: Substitute "41132 " for "49485"
- Page 6, Line 6: Substitute "41132 " for "49485"
- Page 6, Line 7: Substitute "41132 " for "49485"

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9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF PHARMACY**
DEPARTMENT OF CONSUMER AFFAIRS
12 **STATE OF CALIFORNIA**

13 In the Matter of the Petition to Revoke Probation
14 Against:

15 CESAR B. CABRERA
31921 Old Hickory Road
16 Trabuco Canyon, CA 92679

17 Pharmacist License No. 49485

18 Respondent.

Case No. 2949

OAH No. L 2006070432

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

19
20 In the interest of a prompt and speedy resolution of this matter, consistent with the
21 public interest and the responsibility of the Board of Pharmacy (Board), the parties hereby agree
22 to the following Stipulated Revocation of License and Order which will be submitted to the
23 Board for approval and adoption as the final disposition of the Petition.

24 **PARTIES**

25 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
27 by Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy
28 Attorney General.

1 2. CESAR B. CABRERA (Respondent) is represented in this proceeding by
2 attorney, Donald Brown, whose address is 3848 Carson Street, Suite 206, Torrance, CA 90503.

3 3. On or about August 18, 1987, the Board issued Pharmacist License No.
4 RPH 49485 to Respondent. The License was in full force and effect at all times relevant to the
5 charges brought in Petition No. 2949 and will expire on December 31, 2006, unless renewed.

6 **JURISDICTION**

7 4. The Petition to Revoke Probation was filed before the Board, and is
8 currently pending against Respondent. The Petition and all other statutorily required documents
9 were properly served on Respondent on April 12, 2006. Respondent timely filed his Notice of
10 Defense contesting the Petition. A copy of Petition No. 2949 is attached as Exhibit A and
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Petition No. 2949. Respondent also has carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Revocation of
16 License and Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Petition; the right to be represented by
19 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
20 the right to present evidence and to testify on his own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent understands that the charges and allegations in Petition No.
3 2949, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
4 License.

5 9. For the purpose of resolving the Petition without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the Petition and that those charges constitute cause for
8 discipline. Respondent hereby gives up his right to contest that cause for discipline exists based
9 on those charges.

10 10. Respondent understands that by signing this stipulation he enables the
11 Board to order the Revocation of his Pharmacist License without further process.

12 **RESERVATION**

13 11. The admissions made by Respondent herein are only for the purposes of
14 this proceeding, or any other proceedings in which the Board or other professional licensing
15 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

16 **CONTINGENCY**

17 12. The parties understand and agree that facsimile copies of this Stipulated
18 Revocation of License and Order, including facsimile signatures thereto, shall have the same
19 force and effect as the originals.

20 13. In consideration of the foregoing admissions and stipulations, the parties
21 agree that the Board may, without further notice or formal proceeding, issue and enter the
22 following Order:

23 **ORDER**

24 IT IS HEREBY ORDERED that Pharmacist License No. 49485, issued to
25 Respondent CESAR B. CABRERA is revoked and accepted by the Board.

26 14. The Revocation of Respondent's Pharmacist License and the acceptance of
27 the revoked license by the Board shall constitute the imposition of discipline against Respondent.
28 This stipulation constitutes a record of the discipline and shall become a part of Respondent's

license history with the Board.

15. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Director's Decision and Order.

16. Respondent shall cause to be delivered to the Board all his licenses on or before the effective date of the Decision and Order.

17. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Petition No. 2949 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

ACCEPTANCE


I have carefully read the above Stipulated Revocation of License and Order and have fully discussed it with my attorney, Donald Brown. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 12/5/06


CESAR B. CABRERA (Respondent)

I have read and fully discussed with CESAR B. CABRERA the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: NOV 30 2006

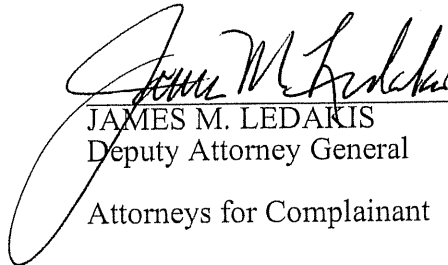

DONALD BROWN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: December 6, 2006

BILL LOCKYER, Attorney General
of the State of California


JAMES M. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SD2005800300
Stipulated Revocation.wpd

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER OF AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition Against:

CESAR B. CABRERA
31921 Old Hickory Road
Trabuco Canyon, CA 92679

Pharmacist License No. 49485

Respondent.

Case No. 2949

OAH No. L 2006070432

DECISION AND ORDER

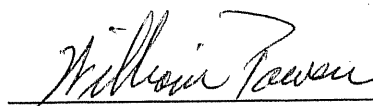
The attached Stipulated Revocation of License and Order is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on February 21, 2007.

It is so ORDERED January 22, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A
Petition No. 2949

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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2949

13 CESAR B. CABRERA
14 31921 Old Hickory Road
Trabuco Canyon, CA 92679
15 Pharmacist No. RPH 49485

**PETITION TO REVOKE
PROBATION**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Patricia F. Harris (Complainant) brings this Petition to Revoke Probation
21 solely in her official capacity as the Executive Officer of the Board of Pharmacy.

22 2. On or about August 18, 1987, the Board issued Pharmacist No. RPH
23 49485 to CESAR B. CABRERA (Respondent). Said license will expire on December 31, 2006,
24 unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Accusation Against
26 Cesar B. Cabrera," Case No. 2777, the Board issued a decision, effective March 5, 2005, in
27 which Respondent's Pharmacist license was revoked. However, the revocation was stayed and
28 Respondent's pharmacist license was placed on probation for a period of five (5) years with

1 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
2 by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Board, under the
5 authority of the following laws. All section references are to the Business and Professions Code
6 unless otherwise indicated.

7 5. Section 4300 of the Code states:

8 (a) Every license issued may be suspended or revoked.

9 (d) The board may initiate disciplinary proceedings to revoke or suspend
10 any probationary certificate of licensure for any violation of the terms and conditions of
11 probation. Upon satisfactory completion of probation, the board shall convert the
12 probationary certificate to a regular certificate, free of conditions.

13 6. Section 4301 of the Code states:

14 The board shall take action against any holder of a license who is guilty of
15 unprofessional conduct or whose license has been procured by fraud or misrepresentation
16 or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of
17 the following:

18 (f) The commission of any act involving moral turpitude, dishonesty,
19 fraud, deceit, or corruption, whether the act is committed in the course of relations as a
20 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

21 7. Section 125.3 of the Code states, in pertinent part, that the Board may
22 request the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 8. Section 118, subdivision (b), of the Code provides that the suspension,
26 expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to
27 proceed with a disciplinary action during the period within which the license may be renewed,
28 restored, reissued or reinstated.

26 Facts:

27 9. On January 8, 2003, respondent was arrested by the Orange County
28 Sheriff's Department for possession for sale of Hydrocodone, which he admitted stealing from

1 his employer in Long Beach, California. On December 18, 2003, respondent pled guilty to
2 felony possession for sale of Hydrocodone. He was sentenced to serve 90 days in jail, pay
3 \$400.00 in restitution, complete a one year outpatient drug treatment, and given three years
4 probation.

5 10. On July 27, 2004, the Board filed an Accusation against respondent for a
6 conviction substantially related his licensure as a pharmacist.

7 11. On December 27, 2004, respondent signed a stipulated settlement placing
8 his license on five years probation with suspension and other terms and conditions.

9 12. On February 4, 2005, the Board adopted the stipulated agreement with
10 respondent to be effective March 5, 2005. On March 8, 2005, respondent appeared at his
11 probation conference to review all the terms and conditions of his probation, including his
12 suspension from pharmacy practice from March 5, 2005 through June 4, 2005.

13 13. As part of the Pharmacists Recovery Program Treatment Contract,
14 respondent agreed to be bound by the terms of the program. As part of his recovery, respondent
15 agreed to the following:

- 16 a. Abstain from the use of alcohol and all other mind altering drugs;
- 17 b. Return to work as a pharmacist up to 24 hours per week;
- 18 c. Not work in a pharmacy where a family member is employed;
- 19 d. Be supervised 75% of each work week by another licensed pharmacist;
- 20 e. Not supervise others, act a Pharmacist in Charge, Manager or preceptor
to interns or new employees;
- 21 f. Report all relapses to Maximus and cease practice upon relapse;
- 22 g. Understand that he could be terminated from the PRP for failure to
comply with the contract.

23 14. On June 27, 2005 and July 6, 2005, respondent tested positive for alcohol.
24 On July 6, 2005, respondent denied alcohol use and denied knowing that the PRP Program
25 prohibited alcohol use. Finally, he admitted to drinking. Maximus verbally suspended
26 respondent from the practice of pharmacy and told him to leave work.

27 15. Maximus advised respondent that he did not have a work-site monitor in
28 place and that he had not completed the work-site monitor paperwork. Respondent was advised
that his current work place, Home Care Pharmacy in Riverside, violated his PRP contract
because his wife was the Pharmacist in Charge. Later, respondent was notified in writing that he

1 returned to work at Home Care Pharmacy without notification to Maximus; continued to work at
2 Home Care Pharmacy where his wife was the Pharmacist in Charge, which was in conflict with
3 his PRP contract; and that continued violations could result in his termination from the PRP
4 Program due to non-compliance. Respondent was ordered to enter an inpatient residential
5 chemical dependency treatment program for 30 days treatment.

6 16. On July 8, 2005, respondent was working at Home Care Pharmacy, and
7 was the only pharmacist present. There were two pharmacy technicians present. The Board
8 confronted respondent with working in violation of his probation, and working in violation of his
9 suspension. Respondent had a key to the pharmacy.

10 17. Maximus notified the Board that respondent had been terminated from the
11 Pharmacists' Recovery Program effective July 13, 2005 for these violations:

- 12 a. Tested positive for alcohol on June 27, 2005 and July 5, 2006;
- 13 b. Returned to work without a work site monitor agreement in place with
a licensed pharmacist;
- 14 c. Returned to work where a relative worked;
- 15 d. Failed to enter inpatient chemical dependency treatment;
- 16 e. Returned to work after relapse;
- 17 f. Returned to work after suspension by Maximus;
- 18 g. Non compliance with PRP Contract.

19 18. On July 14, 2005, the Board sent respondent a letter informing him that his
20 license was suspended due to his termination from the PRP program. Respondent was advised
21 not to enter any pharmacy during his suspension and not to practice pharmacy.

22 19. On August 11, 2005, the Board advised respondent that he failed to
23 reimburse the Board its costs per the Board decision.

24 20. On October 6, 2005, the Board inspected Home Care Pharmacy and
25 discovered that respondent was the only pharmacist on duty at the store. Respondent was
26 confronted by the Board, but he had no excuses for working in violation of the Board's prior
27 order suspending him for 90 days. Respondent worked on the following dates in violation of the
28 90 day suspension: March 7, 10, 21, 2005; April 13, 16, 2005; May 16, 20, 26, 31, 2005; and
June 3, 2005.

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Suspension Period)**

3 21. At all times after the effective date of Respondent's probation, Condition
4 No. 1 stated: Respondent shall be suspended from the practice of pharmacy for a period of 90
5 days.

6 22. Respondent's probation is subject to revocation because he failed to
7 comply with Probation Condition No. 1, as set forth in paragraphs 9 through 20 above, that is, he
8 continued to work during his 90 day suspension.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Reimbursement of Board Costs)**

11 23. At all times after the effective date of Respondent's probation, Condition
12 No. 7 stated: Respondent shall reimburse the Board its costs.

13 24. Respondent's probation is subject to revocation because he failed to
14 comply with Probation Condition No. 7, as set forth in paragraphs 9 through 20 above.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 **(Rehabilitation Program)**

17 25. At all times after the effective date of Respondent's probation, Condition
18 No. 15 stated: Respondent shall comply with the terms of the Pharmacists' Recovery Program.

19 26. Respondent's probation is subject to revocation because he failed to
20 comply with Probation Condition No. 15, as set forth above in paragraphs 9 through 20.

21 **FOURTH CAUSE TO REVOKE PROBATION**

22 **(Abstain from Drugs and Alcohol)**

23 27. At all times after the effective date of Respondent's probation, Condition
24 No. 17 stated: Respondent shall not use alcohol or drugs.

25 28. Respondent's probation is subject to revocation because he failed to
26 comply with Probation Condition No. 17, as set forth in paragraphs 9 through 20.

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